

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1628, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, delete lines 1 through 17.
- 2 Page 2, delete lines 1 through 26.
- 3 Page 2, line 30, after "gift" insert "**in writing**".
- 4 Page 2, line 30, after "under" insert "**section 2(a) of**".
- 5 Page 2, line 35, delete "described" and insert "**identified**".
- 6 Page 2, line 38, delete "as described in" insert "**made in writing**
- 7 **under**".
- 8 Page 2, line 38, delete "chapter;" and insert "**chapter or**
- 9 **IC 9-24-17;**".
- 10 Page 2, line 39, after "the" insert "**donor's**".
- 11 Page 2, delete lines 40 through 42, begin a new paragraph and
- 12 insert:
- 13 "**(c) This section does not limit the individuals identified in**
- 14 **section 2(b) of this chapter from:**
- 15 **(1) making a gift of all or any part of a decedent's body; or**
- 16 **(2) revoking a gift of all or any part of a decedent's body;**
- 17 **as provided in section 2(b) of this chapter.**
- 18 **(d) Actual notice obtained by:**
- 19 **(1) a recovery agency acting under section 3.5(a) of this**
- 20 **chapter; or**
- 21 **(2) a hospital acting under section 3.5(b) of this chapter;**

of an individual's written anatomical gift that is made under section 2(a) of this chapter or IC 9-24-17 creates a rebuttable presumption that the individual made an anatomical gift for purposes of this section.

(e) Actual notice obtained by:

(1) a recovery agency acting under section 3.5(a) of this chapter; or

(2) a hospital acting under section 3.5(b) of this chapter; of an individual's written revocation of an anatomical gift that is made under section 2(a) of this chapter or IC 9-24-17 creates a rebuttable presumption that the individual revoked the anatomical gift for purposes of this section."

Page 3, delete lines 1 through 7.

Page 3, line 8, delete "(e)" and insert "(f)".

Page 3, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 29-2-16-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3.5. (a) If:**

(1) a hospital's designated organ recovery agency determines that an individual whose death is imminent or who has died is medically suitable for organ donation;

(2) a hospital's designated organ recovery agency, in the absence of alternative arrangements by the hospital, and:

(A) using the standards of a potential tissue and eye donor;

(B) using the notification protocol developed by the hospital; and

(C) consulting with the hospital's designated tissue recovery agency and eye recovery agency;

determines that an individual whose death is imminent or who has died is medically suitable for tissue or eye donation;

(3) a hospital's designated tissue recovery agency determines that an individual whose death is imminent or who has died is medically suitable for tissue donation; or

(4) a hospital's designated eye tissue recovery agency determines that an individual whose death is imminent or who has died is medically suitable for eye donation;

the respective recovery agency shall attempt to ascertain whether the individual has made a written anatomical gift under section 2(a) of this chapter or under IC 9-24-17 and, if so, whether the individual has subsequently revoked the anatomical gift in writing. The recovery agency shall consult with the individuals identified in section 2(b) of this chapter who are reasonably available and may

1 consult with any other sources that are available to the recovery
2 agency.

3 (b) The recovery agency shall provide to the following any
4 information obtained by the recovery agency under subsection (a):

5 (1) The hospital.

6 (2) The attending physician.

7 (3) The physician who certified the individual's death if there
8 is not an attending physician.

9 (c) A recovery agency identified in subsection (a) may enter into
10 a written agreement with a hospital to allow the hospital to
11 ascertain whether an individual made a written anatomical gift
12 under subsection 2(a) of this chapter or IC 9-24-17 and whether
13 any subsequent written revocation of the anatomical gift occurred.

14 (d) The hospital shall provide to the following any information
15 obtained by the hospital under subsection (c):

16 (1) The recovery agency.

17 (2) The attending physician.

18 (3) The physician who certified the individual's death if there
19 is not an attending physician.

20 (e) A hospital or a recovery agency is immune from civil liability
21 for determining in good faith and in compliance with this section
22 that:

23 (1) an individual made a written anatomical gift; or

24 (2) an individual subsequently made a written revocation of
25 an anatomical gift."

26 Page 4, between lines 2 and 3, begin a new paragraph and insert:

27 "SECTION 4. IC 29-2-16-7.5 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2001]: Sec. 7.5. (a) The individual's attending
30 physician, or, if none, the:

31 (1) physician that certifies the individual's death;

32 (2) hospital where the individual is admitted;

33 (3) hospital where the individual's remains are being kept; or

34 (4) individual identified in section 2 (b) of this chapter;

35 may petition the probate court in the county where the remains of
36 the individual who is the subject to the petition are located, or the
37 county in which the individual died, for the information referred
38 to in subsection (b).

39 (b) A person identified in subsection (a) may petition the
40 probate court specified in subsection (a) to determine whether the
41 individual:

42 (1) made a written anatomical gift under section 2(a) of this

1 chapter or IC 9-24-17, for purposes of section 2.5 of this
 2 chapter; or

3 (2) made a written revocation of an anatomical gift under
 4 section 2(a) of this chapter or under IC 9-24-17, for purposes
 5 of section 2.5 of this chapter.

6 (c) If the probate court determines under subsection (b) of this
 7 chapter that the individual made a written anatomical gift that was
 8 not subsequently revoked in writing by the individual, the court
 9 shall order that the anatomical gift of an organ, tissue, or an eye be
 10 recovered.

11 (d) The probate court may modify or waive notice and a hearing
 12 if the court determines that a delay would have a serious adverse
 13 effect on:

14 (1) the medical viability of the individual; or

15 (2) the viability of the individual's anatomical gift of an organ,
 16 tissue, or an eye."

17 Page 4, line 3, delete "117.5" and insert "123.5".

18 Page 4, line 5, delete "117.5" and insert "**123.5**".

19 Page 4, after line 6, begin a new paragraph and insert:

20 "SECTION 6. IC 34-30-2-123.7 IS ADDED TO THE INDIANA
 21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2001]: **Sec. 123.7. IC 29-2-16-3.5 (Concerning**
 23 **hospital and recovery agency immunity and anatomical gifts).**"

24 Renumber all SECTIONS consecutively.

(Reference is to HB 1628 as printed February 15, 2001.)

and when so amended that said bill do pass .

Committee Vote: Yeas 6, Nays 0.

Senator Bray, Chairperson